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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DAVID J. LORENZO,
Plaintiff

vs.

THE BOROUGH OF PALISADES
PARK, NEW JERSEY; CHONG
PAUL KIM (individually and in his
official capacity as Mayor of the
Borough of Palisades Park, New
Jersey); and SUK "JOHN" MIN
(Individually and in his official
capacity as a member of the Borough
Council of Palisades Park, New Jersey)
Defendants.

Hon. Claire C. Cecchi, U.S.D.J.
Hon. José R. Almonte, U.S.M.J.

Civ. No.: 2:23-CV-21849-CCC-JRA
A Civil Action

**CERTIFICATION OF COUNSEL IN
SUPPORT OF MOTION TO DISMISS**

I, R. Scott Fahrney, Esq., being of full age, herby certifies as follows:

1. I am an Attorney at Law of the State of New Jersey, licensed to practice before this Court, and am a Partner of the Law Firm of Semeraro & Fahrney, LLC.
2. As the attorney assigned to this matter, I make this Certification with personal knowledge and in support of the Defendant's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6).
3. Attached hereto as Exhibit 1, is a true and complete copy of the Plaintiff's Complaint publicly filed under Docket No.: BER-L-6632-23.
4. Attached hereto as Exhibit 2 is a true and complete copy of the Borough of Palisades Park's Opposition to the Plaintiff's Verified Complaint and Order to Show Cause, publicly filed under Docket No.: BER-L-6632-23.

5. Attached hereto as Exhibit 3 is a true and complete copy of Plaintiff's Verified Complaint and Order to Show Cause, publicly filed under Docket No.: BER-L-6632-23.

I certify that the statements in this certification are true and correct to the best of my knowledge.

I am aware that if anything herein is willfully false, I am subject to punishment.

Semeraro & Fahrney, LLC
Attorneys for Defendants

By: 

R. Scott Fahrney, Esq.,

Dated: January 16, 2024

Exhibit 1

THE LAW OFFICES OF RICHARD MALAGIERE
A Professional Corporation
250 Moonachie Road, Suite 300A
Moonachie, New Jersey 07074
(201) 440-0675
Richard Malagiere Attorney ID: (037951996)
Leonard E. Seaman Attorney ID: (035021990)
Giancarlo Ghione Attorney ID: (294482020)
Attorneys for Plaintiff

DAVID LORENZO

PLAINTIFF,

V.

**BOROUGH OF PALISADES PARK;
MAYOR AND COUNCIL OF
PALISADES PARK**

DEFENDANTS.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO.: BER-L-

CIVIL ACTION

VERIFIED COMPLAINT

Plaintiff David Lorenzo by way of verified complaint against Defendants Borough of Palisades Park, and Mayor and Council of Palisades Park (collectively “Defendants”) says:

THE PARTIES

1. Plaintiff David Lorenzo is a resident of Palisades Park. Lorenzo is the Borough Administrator of Palisades Park.
2. Defendant Borough of Palisades Park is a body politic and corporate of the State of New Jersey and the governing body of the Borough of Palisades Park located in the County of Bergen.
3. The Defendant Mayor and Council of Palisades Park is the governing body of the Borough of Palisades Park.

VENUE

4. Venue is properly laid in Bergen County because the defendants are public bodies located in Bergen County. R. 4:3-2(a).

FACTUAL ALLEGATIONS

5. On January 3, 2023 the defendant Borough of Palisades Park passed Resolution 2023-9 setting the schedule of Mayor and Council meetings for the year of 2023. A true and accurate copy of Resolution 2023-9 is attached hereto as Exhibit A.

6. The Record and Newark Star Ledger were named as the official newspapers for Palisades Park at the February 27, 2023 mayor and council meeting. A true and accurate copy of the relevant portions of Resolution 2023-1 is attached hereto as Exhibit D.

7. On November 2, 2023 defendant Borough of Palisades Park held a special council meeting at 1:00 PM at which time it suspended and placed on administrative leave the Plaintiff – Borough Administrator.

8. Plaintiff is the president of the Palisades Park Democratic Club. Plaintiff and the Palisades Park Democratic Club ceased supporting members of defendant Palisades Park Mayor and Council in the 2023 election cycle¹.

9. An election was held on Tuesday November 7, 2023 – five days after the November 2, 2023 special meeting.

10. On October 31, 2023, Plaintiff was provided with Rice notice via email. Upon information and belief, the notice was prepared by Mayor Paul Kim. A true and accurate copy of the email providing Plaintiff with Rice notice is attached hereto as Exhibit B.

11. On October 31, 2023 Plaintiff responded and waived his right to closed session and asked that any matter related to his employment be discussed in open session. See Exhibit B.

12. The Rice notice provided to Plaintiff was dated October 30, 2023. A true and accurate

¹ <https://www.nj.com/bergen/2023/11/town-official-suspended-after-ordering-candidates-name-removed-from-campaign-signs-lawsuit-says.html> (Last visited December 8, 2023)

copy of the Rice notice is attached hereto as Exhibit C.

13. An agenda with no specific items of business relating to the November 2, 2023 special meeting was posted on the Borough's website in advance of the special meeting.

14. The only item of business identified on the agenda posted on the Borough's website was "Resolution 2023-223 Authorization to Enter Executive Session." See, Certification of Richard Malagiere ("Malagiere Cert.") Exhibit B.

15. A "revised" agenda was provided to Plaintiff's counsel in response to an OPRA request which is/was not posted online. See, Malagiere Cert. Exhibit C.

16. The revised agenda adds three "Off Consent Agenda":

- i) RESOLUTION 2023-224 Authorization to Place Employee on Administrative Leave (RE: D. Lorenzo)
- ii) RESOLUTION 2023-225 Appointment of Police Director (RE: M. Gardner)
- iii) RESOLUTION 2023-226 Appointment of Special Counsel (RE: Ruderman & Roth, LLC)
[See, Malagiere Certif. Exhibit C]

17. Notice of the special meeting was published in The Record and Newark Star Ledger on November 3, 2023 (**one day after the special meeting**). See, Malagiere Cert. Exhibit D; Ghione Certif. Exhibit B.

18. Notices of public meetings published in The Record and Herald News are submitted electronically to the newspaper through an online portal maintained by Gannett. See Certification of Giancarlo Ghione ("Ghione Cert.") ¶4.

19. NJ Advance Media provides an email address on its website to publish notices. See Ghione Certif. ¶6.

20. According to the OPRA request submitted by Richard Malagiere, Esq., the notice of the special meeting was advertised to the public in The Record newspaper **one (1) day after** the

special meeting took place.

21. The notice in its entirety stated:

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisade Park Mayor and Council will hold a Special Meeting on Thursday, November 2, 2023 1:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By order of:

Mayor and Council

Gina S. Kim, RMC, CMC

Borough Clerk

The Record November 3, 2023

Fee: 23.76 (27) 0009472934

[See Malagiere Certif. Exhibit D]

22. An identical version of the public notice published in The Record and Herald News was published in the Newark Star Ledger. See, Ghione Certif. Exhibit B.

23. The Record and Herald News have available Deadlines for Public Notices advising by what day and time public notices need to be submitted to be published by a certain time. See, Ghione Certif. Exhibit A.

24. The Star Ledger has a deadline date of at least 3 business days prior to the requested publication date submitted by or before 3:00 pm. See, Ghione Certif. Exhibit C.

25. The public notice of the November 2, 2023 special meeting was published in the

November 3, 2023 newspapers.

26. It appears clear that The Record, Herald News, and Star Ledger needed to have notice of the November 2, 2023 special meeting by October 27, 2023 to publish by November 1, 2023 in advance of the November 2, 2023 meeting.

27. There was no discussion relating to the suspension of plaintiff upon Resolution 2023-224 being introduced.

28. The Mayor and Council of the Borough of Palisades Park voted (3 in favor and 1 opposed, with the mayor not voting and 2 council persons absent) to place Plaintiff David Lorenzo, Borough Administrator “on administrative leave” at the illegal November 2, 2023 special meeting.

29. Upon information and belief, the illegal meeting was held for political purposes (five (5) days before election day) and to further its retaliation against plaintiff for exercising his first amendment right to support candidates other than Suk Kim (who voted in favor of suspending the Plaintiff).

30. A copy of the resolutions passed at the November 2, 2023 meeting were not provided in response to Mr. Malagiere’s OPRA request. The Borough’s reason was: “[n]o records; the Resolutions are under attorney review.” See Malagiere Certif. Exhibit A.

COUNT ONE

(FAILURE TO PROVIDE ADEQUATE NOTICE OF THE SPECIAL MEETING IN TWO NEWSPAPERS THAT HAVE A LIKELIHOOD OF INFORMING THE PUBLIC AND NOTICE WAS NOT PROVIDED IN A TIMELY MANNER FOR THE NOTICE TO RUN IN ADVANCE OF THE SPECIAL MEETING PURSUANT TO N.J.S.A. 10:4-8)

31. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

32. Defendants had actual or ascertainable knowledge that the public notice could not have been published in advance of the November 2, 2023 Special Meeting based upon when the

notice was provided to the newspapers.

33. Defendants were expected to be aware of time requirements for mail delivery and publication of public notices.

34. Defendants failed to provide such prior notice in a timely manner resulting in notice of the special meeting being published on November 3, 2023, the day after the special meeting.

35. The Defendants did not provide adequate notice in violation of the Open Public Meetings Act by failing to make all reasonable efforts to have notice published in advance of the meeting and Resolution 2023-224 should therefore be declared null and void.

WHEREFORE, Plaintiff demands judgement as follows:

- A. An Order or Judgment voiding Resolution 2023-224 and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;
- B. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- C. Such other, further, and different relief as the Court may deem equitable and just.

COUNT TWO

(FAILURE TO PROVIDE NOTICE OF AGENDA KNOWN PURSUANT TO N.J.S.A. 10:4-8)

36. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

37. Defendants were required to provide adequate notice of the November 2, 2023 special meeting of the Palisades Park Mayor and Council per N.J.S.A. 10:4-8.

38. Defendants failed to provide the agenda to the extent known at the time of publication of the special meeting's notice.

39. Defendants knew on October 30, 2023, that a Rice notice was being prepared and provided to plaintiff.

40. The agenda prepared and provided for on the notice did not include Resolution 2023-224 or any mention of Plaintiff.

41. Defendants prepared a revised agenda with three agenda items that were not included in the notice published in The Record and Herald News.

42. On October 31, 2023 plaintiff was provided with a Rice notice dated October 30, 2023. Plaintiff waived his right to closed session and asked any matter relating to his employment be discussed in open session.

43. The Defendants did not provide adequate notice by failing to include the agenda to the extent known in the notice of the special meeting in violation of the Open Public Meetings Act and therefore Resolution 2023-224 should be declared null and void.

WHEREFORE, Plaintiff demands judgement as follows:

- A. An Order or Judgment voiding Resolution 2023-224 and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;
- B. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- C. Such other, further and different relief as the Court may deem equitable and just.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: December 8, 2023

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Richard Malagiere Esq., as trial counsel.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: December 8, 2023

CERTIFICATION PURUSANT TO R. 1:38-7(B)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: December 8, 2023

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief except for the federal matter captioned DAVID J. LORENZO v. THE BOROUGH OF PALISADES PARK, NEW JERSEY; CHONG PAUL KIM (individually and in his official capacity as Mayor of the Borough of Palisades Park, New Jersey); and SUK “JOHN” MIN (individually and in his official capacity as a member of the Borough Council of Palisades Park, New Jersey) bearing a case number of 2:23-cv-21849. To the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in the

pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: December 8, 2023

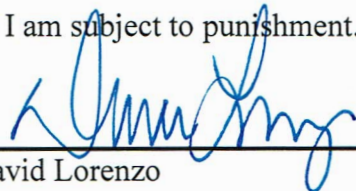
VERIFICATION

I, David Lorenzo, of full age and being duly sworn according to the law, upon my oath say:

1. I am the Plaintiff in the complaint to which this verification is attached. All of the facts stated in the verified complaint to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe those facts to be true.

2. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: December 5, 2023



David Lorenzo

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang						
Kim						
Park						
Pirrera						
Vietri						
Vacant						

NO. 2023-9
DATE January 3, 2023
Carried ☒ Defeated ☐ Tabled ☐
Approved on Consent Agenda ☒

BE IT RESOLVED, by the Mayor and Council of the Borough of Palisades Park, in compliance with the provisions of the Open Public Meetings Act as follows:

SECTION 1: Except as provided by Section 7b of the Act, all meetings of the Council shall be open to the public at all times.

SECTION 2: At every Work Session Meeting, the public may be heard and the Council may take formal action.

SECTION 3: At every Regular Public Meeting, the public may actively participate during the time or times designated for that purpose in the order of Business and the Council may take formal action.

SECTION 4: The Work Session & Regular Public Meetings of the Council shall be held in the Municipal Building, located at 275 Broad Avenue, Palisades Park, N.J. at 5:00 P.M. on the dates set forth below.

**SCHEDULE OF MAYOR & COUNCIL MEETINGS
FOR THE YEAR 2023**

Reorganization Meeting: Tuesday, January 3, 2023 at 6:00 P.M.	
Tuesday, January 31, 2023	Monday, July 24, 2023
Monday, February 27, 2023	Monday, August 28, 2023
Monday, March 27, 2023	Monday, September 25, 2023
Monday, April 24, 2023	Monday, October 23, 2023
Tuesday, May 30, 2023	Monday, November 27, 2023
Monday, June 26, 2023	Monday, December 18, 2023

SECTION 5: Within seven (7) days following the adoption of this Resolution, any revising or modifying of this Resolution:

- a. A copy shall be posted on the bulletin board accessible to the public at all business hours at or near the entrance to the Council Chambers, and shall remain so posted until replaced with a duly adopted Resolution setting forth any revision thereof.
- b. A copy shall be mailed to the Newark Star Ledger and The Record, both official newspapers circulating in the Borough of Palisades Park.

c. A copy shall be filed in the Borough Clerk's Office of the Borough of Palisades Park.

SECTION 6: Upon receipt by the Borough Clerk of a written request setting forth the name and address of the person making the request and accompanied by a fee of \$5.00, the Clerk shall send to such person by regular mail, between the date of such request and December 31 next ensuing, a copy of the Regular Meeting schedule referred to in Section 4, all revisions thereof, and all other advance notices of regular, special, rescheduled and canceled meeting dates. Like mailing shall be sent free of charge to all news media requesting such notices. All such requests shall terminate on December 31 next following the making of the request, but shall be subject to renewal upon receipt by the Borough Clerk of a renewal request and renewal fee.

Approved:

Attest:

Christopher J. Chung, Mayor

Sophia H. Jang, Deputy Borough Clerk

From: [Richard Malagiere](#)
To: [Giancarlo Ghione](#)
Subject: FW: [EXTERNAL] Re: RICE Notice
Date: Tuesday, December 5, 2023 4:23:58 PM

Richard Malagiere, Esq.
The Law Offices of Richard Malagiere
A Professional Corporation
250 Moonachie Road, Suite 300A
Moonachie, New Jersey 07074
Direct Dial: 201-509-4181
Office Phone: 201-440-0675
Office Fax: 201-440-1843
rm@malagierelaw.com
<http://www.malagierelaw.com>

From: Matthew Moench <mmoench@kingmoench.com>
Sent: Tuesday, October 31, 2023 1:19 PM
To: Dave Lorenzo <dlorenzo@palisadesparknj.us>
Cc: Gina Kim <gkim@palisadesparknj.us>; Sophia Jang <sjang@palisadesparknj.us>; Mayor Kim <mayorkim@palisadesparknj.us>; Richard Malagiere <rm@malagierelaw.com>
Subject: [EXTERNAL] Re: RICE Notice

Received.

On Oct 31, 2023, at 12:59 PM, Dave Lorenzo <dlorenzo@palisadesparknj.us> wrote:

Ms. Kim / Mr Moench;

Please be advised that I am in receipt of what 'appears' to be intended as a Rice notice clearly drafted by a non-lawyer and not proofread before delivery.

Notwithstanding, I am hereby exercising my right to waive closed session as it relates to my employment and ask that any matter

related to my employment be discussed in open session.

Be guided accordingly

Dave Lorenzo

BA

From: Gina Kim <gkim@palisadesparknj.us>

Sent: Tuesday, October 31, 2023 10:16 AM

To: Davide Lorenzo Boro Admin <dlorenzo@palisadesparknj.us>

Cc: Sophia Jang <sjang@palisadesparknj.us>; Mayor Kim
<mayorkim@palisadesparknj.us>; Matthew Moench <MMoench@kingmoench.com>

Subject: RICE Notice

Dear Mr. Lorenzo,

Attached please find a RICE Notice prepared by Mayor Kim.

Kindly confirm receipt.

Thank you.

Sincerely,
Gina S. Kim, RMC/CMC
Borough Clerk
275 Broad Ave
Palisades Park, NJ 07650
Office: (201) 585-4153
Fax: (201) 585-4155
<https://www.mypalisadespark.com>

October 30, 2023

VIA CERTIFIED & REGULAR MAIL and EMAIL

David Lorenzo

INSERT ADDRESS

**RE: Rice Notice
Thursday, November 2, 2023**

Dear Mr. Lorenzo:

Please be advised that at the Borough's special meeting, to be held on Thursday, November 2, 2023, beginning at 1:00 p.m., the Governing Body may discuss a change in terms and conditions of your employment.

Since this is a personnel matter, the Governing Body intends to discuss this matter during its executive session, which shall be closed to the public. Action, if any, will be taken in public. If there are any strictly personnel matters regarding your employment, notwithstanding litigation or pre-litigation items, you have the right to request, in writing, that the Governing Body conduct the discussion of these personnel items concerning your employment in public pursuant to the provisions of the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*), *Rice v. Union County Regional High School Bd. Of Ed.*, 155 NJ Super 64 (App. Div. 1977); cert. den., 76 N.J. 238 (1978) and *Kean Federation of Teachers v. Morell*, 233 N.J. 566 (2018). If you decide to exercise this right, you must notify me, in writing, by returning a copy of this letter, by no later than 12:00 p.m. on Thursday, November 2, 2023. If you do not inform me of your election by the date and time noted herein, it will be assumed that you wish any discussion regarding the terms and conditions of your employment by the Governing Body to be held in executive session.

If you have any questions, please feel free to contact me.

Very truly yours,

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang			X			
Kim	X		X			
Park			X			
Pirrera			X			
Vietri			X			
Min		X	X			

NO. 2023-1
DATE February 27, 2023
Carried ☒ Defeated ☐ Tabled ☐
Approved on Consent Agenda ☒

RESOLUTION REGARDING NOMINATIONS AND/OR APPOINTMENTS FOR 2023

WHEREAS, in the November 2022 general election, Chong Paul Kim was elected to the office of Mayor, for a four-year term from January 1, 2023 to December 31, 2026; and

WHEREAS, the Borough of Palisades Park operates under the Borough form of government set forth at N.J.S.A. 40A:60-1 et seq.; and

WHEREAS, under N.J.S.A. 40A:60-5(g), the mayoral appointment power is established, which provides as follows:

“[t]he mayor shall nominate and, with the advice and consent of council, appoint all subordinate officers of the borough, unless the specific terms of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within thirty days of that office becoming vacant”

; and

WHEREAS, pursuant to same, Palisades Park Ordinance § 4-7(A) provides as follows:

Except as otherwise provided by statute, the Mayor shall nominate and, with the advice and consent of the Council, appoint all officers in the borough. No appointments requiring Council approval and confirmation shall be made except by a majority vote of the Council members present at the meeting, provided that at least three affirmative votes shall be required for such purpose, with the Mayor to have no vote thereon except in the case of a tie. A vacancy in an appointive office shall be filled by appointment in the same manner for the unexpired term only. The Mayor shall make such nomination to fill a vacancy within 30 days after the appointive office becomes vacant. If the Mayor fails to nominate within 30 days or the Council fails to confirm any nomination made by the Mayor, then, after the expiration of 30 days, the Council shall appoint the officer.

[(Emphasis added)].

; and

WHEREAS, Palisades Park Ordinance § 48-32 further provides:

Except as provided by state statute, all offices of the Borough of Palisades Park created by statute and/or ordinance shall be appointed by nomination of the Mayor with the advice and consent of Council.

EXHIBIT D TO THE VERIFIED COMPLAINT

COMMUNITY AFFAIRS COMMITTEE – 5 Year Term

Michael Lee	12/31/24
Mohammad Mansour	12/31/24
James Jhang	12/31/24
Youngmi Lee	12/31/24
Irene Grala	12/31/27
Sang Won Lee	12/31/27

EMERGENCY MANAGEMENT COORDINATOR – 3 Year Term

Alex Monteleone	12/31/23
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DEPUTY EMERGENCY MANAGEMENT COORDINATORS – 3 Year Term

Michael P. Vietri	12/31/23
Austin J. Ashley	12/31/23
George Beck Jr	12/31/23

SAFETY COMMITTEE

Robert DeVito	12/31/23
VACANT	12/31/23
Michael Valente	12/31/23

FIRE OFFICIAL

Andrew Chiurazzi	12/31/23
------------------	----------

FIRE DEPARTMENT CUSTODIAN

Alex Monteleone	12/31/23
-----------------	----------

POLICE & EMS CHAPLAIN

Rev. Minhyun Cho	12/31/23
Fr. Stephen Ehiahuruike	12/31/23
Pastor Dohwan Kim	12/31/23
Rev. Joshua Park	12/31/23

POLICE SURGEONS

Kenneth Choi	12/31/23
Weekon Choi	12/31/23
Richard Joo	12/31/23
Luke Eyerman	12/31/23
William Yu	12/31/23

OFFICIAL DEPOSITORIES

Bank of New Jersey	12/31/23
BCB Bank	12/31/23
Connect One	12/31/23
PNC Bank	12/31/23
Sovereign Bank	12/31/23
TD Bank	12/31/23
Valley National	12/31/23

OFFICIAL NEWSPAPERS

The Record	12/31/23
Newark Star Ledger	12/31/23

HONORARY MEDIA

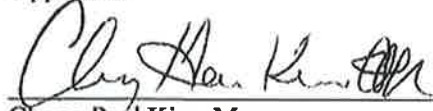
Korean Times	12/31/23
Korean Daily Central News	12/31/23

EXHIBIT D TO THE VERIFIED COMPLAINT

The Jersey Journal-Dispatch
KBN Television
AM 1660
FM 87.7

12/31/23
12/31/23
12/31/23
12/31/23

Approved:



Chong Paul Kim, Mayor

Attest:



Sophia H. Jang, Deputy Borough Clerk

Exhibit 2

SEMERARO & FAHRNEY, LLC

Mark J. Semeraro, Esq.; Bar ID No.: 025331992

155 Route 46, Suite 108

Wayne, New Jersey 07470

T: 973-988-5070

F: 973-988-5533

E: msemeraro@semerarolaw.com

Attorneys for Defendants

DAVID LORENZO

Plaintiff,

vs.

BOROUGH OF PALISADES PARK;
MAYOR AND COUNCIL OF PALISADES
PARK

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

DOCKET NO.: BER-L-6632-23

A Civil Action

**MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S ORDER TO SHOW CAUSE**

SEMERARO & FAHRNEY, LLC

155 Route 46, Suite 108

Wayne, New Jersey 07470

Attorneys for Defendants

R. Scott Fahrney, Esq.

Mark J. Semeraro, Esq.

On the Brief

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PRELIMINARY STATEMENT

This matter comes before the Court by way of the Plaintiff's, David Lorenzo, ("Plaintiff") Verified Complaint (presumably in lieu of prerogative writ) challenging actions taken by the Governing Body of the Borough of Palisades Park and Order to Show Cause why a resolution adopted on November 2, 2023, placing the Plaintiff on **paid administrative leave** should not be invalidated.

The Plaintiff bases the requested relief upon two alleged violations of the notice requirements set forth in the New Jersey Open Public Meetings Act, N.J.S.A. §10:4-6 et seq., ("OPMA") for a November 2, 2023 Special Council Meeting held by the Defendants, Borough of Palisades Park and the Mayor and Council of the Borough of Palisades Park, (hereinafter referred to as the "Borough"), which are now moot, as the Borough has taken corrective action as permitted by law.

As expressly permitted by N.J.S.A. §10:4-15(a) (West), the Borough properly re-noticed a subsequent Special Council Meeting, which was held on December 31, 2023 and ratified the actions challenged by Plaintiff from the November 2, 2023 meeting. This matter now ends.

As such, Plaintiff's Order to Show Cause must be denied, and the Verified Complaint must be dismissed with prejudice as a matter of law.

STATEMENT OF FACTS

The November 2, 2023 Special Meeting

1. On October 31, 2023, the Borough Clerk sent the Notice of the Special Meeting to the Bergen Record and the New Jersey Star-Ledger (the official newspapers of the Borough), asking that the paper "publish the attached notice as soon as possible for a Special Council

meeting to be held on November 2, 2023. See attached as Exhibits A and B, to the Cert. of Municipal Clerk, Gina Kim.

2. On October 31, 2023, notice of the November 2, 2023 Special Meeting was also posted on the Borough's bulletin board at Borough Hall as per the requirements of the N.J.S.A §10:4-8 as well as on the Borough's website under Notices. See Cert. of Kim, ¶7.
3. On November 2, 2023, Defendant, Borough of Palisades Park, held a special council meeting at 1:00 PM at which time it passed Resolution 2023-224 and placed the Plaintiff on administrative leave with full pay and benefits. Pl. Compl. ¶7.
4. On November 2, 2023, the Borough of Palisades Park placed the Plaintiff on administrative leave with full pay and benefits under Resolution 2023-224. See Cert of Kim, Exhibit C.
5. On December 8, 2023, Plaintiff filed the instant OTSC and Verified Complaint seeking to void the aforementioned Resolution 2023-224 due to alleged deficiencies in the notice published for the November 2, 2023 meeting, based upon inadequate time and content.

The Corrective Action pursuant to N.J.S.A. 10:4-15(a)

6. On December 26, 2023, The Borough Council of Palisades Park, by and through the Municipal Clerk, called for a Special Meeting of the Borough Council to be conducted on December 31, 2023.
7. On December 26, 2023, at approximately 1:19 PM, the Borough Clerk sent the Notice of the Special Meeting to be held 4:00 PM on December 31, 2023, to the Bergen Record (the official paper of the Borough), asking that the paper "publish the attached notice as soon as possible in the Record newspaper," which shortly thereafter was confirmed to be December 29, 2023. See attached as Exhibit D, to the Cert. of Municipal Clerk, Gina Kim.

8. On December 26, 2023, at approximately 1:21 PM, the Borough Clerk sent the Notice of the Special Meeting to the Newark Star Ledger (the official paper of the Borough), asking that the paper “publish the attached notice as soon as possible in the Star-Ledger” and therefore complied with the Open Public Meetings Act. See attached as Exhibit E, to the Cert. of Municipal Clerk, Gina Kim.
9. On December 26, 2023, Notice of the December 31, 2023 Special Meeting was also posted on the Borough’s bulletin board at Borough Hall as per the requirements of the N.J.S.A. §10:4-8 as well as on the Borough’s website under Notices. Kim Cert., ¶15.
10. On December 26, 2023 at approximately 1:50 PM, the Agenda for the December 31, 2023 Special Meeting was also posted on the Borough’s bulletin board at Borough Hall as per the requirements of the N.J.S.A. §10:4-8 as well as on the Borough’s website under Notices. See attached as Exhibit F, to the Cert. of Municipal Clerk, Gina Kim.
11. On December 26, 2023, Plaintiff was provided with a Rice Notice via email, regular mail, and hand delivered courier, with the hand delivery being served upon the Plaintiff on December 27, 2023, at 8:38 am. See attached as Exhibit G, to the Cert. of Municipal Clerk, Gina Kim.
12. On December 29, 2023, the Notice of the December 31, 2023 Special Meeting was published in the Bergen Record (the official paper of the Borough) in accordance with the OPMA. See attached as Exhibit H, to the Cert. of Municipal Clerk, Gina Kim.
13. On December 29, 2023, the Notice of the December 31, 2023 Special Meeting was published in the Star-Ledger (the official paper of the Borough) in accordance with the OPMA. See attached as Exhibit I, to the Cert. of Municipal Clerk, Gina Kim.

14. On December 31, 2023, the Mayor and Council for the Borough of Palisades Park held a Special Meeting that fully complied with the OPMA. See Kim Cert. Exhibit F.
15. On December 28, 2023, by way of email to Borough Clerk Kim, Plaintiff waived his right to a closed session at the meeting and asked that any matter related to his employment be discussed in open session.
16. On December 31, 2023, the Mayor and Council, conducted no discussion on the personnel action in executive session, but discussed other matters, and thereafter in open session voted on Resolution 2023-261 without discussion, passed by a vote of 4-3 with Mayor Kim breaking the tie. See attached as Exhibit J, to the Cert. of Municipal Clerk, Gina Kim.
17. Resolution 2023-261 placed Plaintiff on administrative leave with pay, including all emoluments, effective November 2, 2023, pending the conclusion of the Borough's internal investigation. See attached as Exhibit J, to the Cert. of Municipal Clerk, Gina Kim.

LEGAL ARGUMENT

I. THE BOROUGH TOOK CORRECTIVE AND REMEDIAL ACTION ON DECEMBER 31, 2023, UNDER N.J.S.A. 10:4-15(A), AND THEREFORE THE PLAINTIFF'S ORDER TO SHOW CAUSE IS MOOT

In the matter at bar, Plaintiff claims that the Borough violated the Open Public Meetings Act, N.J.S.A. §10:4-6, et seq. ("OPMA"), by failing to provide adequate and timely notice and to the newspapers in time to be published for the Council's November 2, 2023 meeting and that the actions to be taken by the Board should be voided as a result.

While Defendants do not admit to any such violations, it nonetheless opted to correct any possible violations by scheduling a subsequent Special Council Meeting to ratify the actions taken in the November 2, 2023 meeting, as permitted to do by law.

While N.J.S.A. §10:4-15(a) provides that aggrieved parties could file an action in lieu of prerogative writ to void a public body's action at a meeting that did not comply with the OPMA, it also expressly states:

that a public body may take corrective or remedial action by acting de novo at a public meeting held in conformity with this act and other applicable law regarding any action which may otherwise be voidable pursuant to this section; and provided further that any action for which advance published notice of at least 48 hours is provided as required by law shall not be voidable solely for failure to conform with any notice required in this act. [Emphasis added.]

By virtue of the above language, our courts have long held that a public body can correct its errors when a prior meeting was not properly noticed, by having a subsequent meeting (this time properly noticed) and taking the same corrective action. See Mun. Council of City of Newark v. Essex Cnty. Bd. of Elections, 611 A.2d 1157, 1158 (N.J. Super. L. Div. 1992); Houman v. Mayor and Council of Borough of Pompton Lakes, 382 A.2d 413, 431 (N.J. Super. L. Div. 1977), (wherein the court explained the distinction between “voidable” and “void” as they relate to the OPMA and that if a corrective action is taken under the OPMA, the court found that a public body, pursuant to N.J.S.A. §10:4-15, could retroactively ratify its actions -- that is, corrective action may be taken *nunc pro tunc*).

In Municipal Council of City of Newark, 611 A.2d at 1160, the city council brought an action to oppose new election boundaries and moved for partial summary judgment based on violation by county board of elections of the Open Public Meetings Act (OPMA). At the Board of Elections' February 28, 1992 meeting, the Board adjusted several election districts in the eastern and central wards of Newark. Id. at 1157. This action was rescinded due to technical errors that occurred at the meeting. On March 9, 1992, the Board met and again adjusted the boundaries of the eastern and central wards of Newark. Id. The record reflected that the notice of both February

28, 1992 and March 9, 1992 meetings did not meet the requirements of the Open Public Meetings Act, N.J.S.A. §10:4-6, *et seq.*, because the notices were published in only one newspaper and were not filed with the county clerk. Id. In addition, neither of the notices listed the meeting agenda, to the extent known, contrary to the requirements of the statute. Id.

In City of Newark, the Board of Elections then scheduled a special meeting for May 29, 1992. This meeting was properly noticed by filing the notice with the county clerk, publishing the notice in two newspapers, complete with the proposed agenda, posting the notice and making a press alert. Id. at 1158. In short, this meeting was in compliance with the OPMA. Id. At the meeting, the Board considered the redistricting *de novo*. Id.

There the court held that “a public body may correct an action which does not comply with the OPMA by acting anew at a time when that body does comply with the OPMA. I further hold that the Board did act anew at its May 29, 1992 meeting and the corrective action taken by the Board, at that time, had the remedial effect of retroactively ratifying its actions *nunc pro tunc*, as of February 28, and March 9, 1992. Having determined that the Board's actions of May 29, 1992 did not violate the OPMA and that those actions related back to its earlier meetings, it is not necessary for the court to consider plaintiff's claims with respect to N.J.S.A. §19:4-15, due to the fact that those actions were more than 75 days before the Primary Election.” Id. at 1160.

Following Plaintiff's assertions that the November 2, 2023 Special Meeting did not comply with the OPMA, on December 26, 2023, the Borough through the Borough Clerk, called for a Special Meeting of the Borough Council to be conducted on December 31, 2023.

As set forth in the statement of facts above, all of the formalities associated with proper notice under N.J.S.A. §10:4-6 *et seq.*, of the Open Public Meetings Act were meticulously adhered to. Not only was proper 48-hour notice requested by the paper, it is clear that it actually occurred

and that the notice was published more than 48 hours in advance of the meeting in both official papers of the Borough. See Kim Cert., Exhibits H and I.

On December 31, 2023, the Mayor and Council for the Borough of Palisades Park held a Special Meeting that fully complied with the OPMA. See Kim Cert. Exhibit F. During the Special Meeting, the Mayor and Council also passed Resolution 2023-262 (appointing the Borough's Police Director) as well as 2023-263 (appointing Special Legal Counsel), each ratifying prior actions taken at the November 2, 2023 meeting. See Kim Cert., Exhibit F.

On December 31, 2023, the Mayor and Council then introduced Resolution 2023-261, and since the Plaintiff had waived its right to discussion in executive session, the Borough conducted no discussion on the personnel action in executive session. There was no discussion by the Council on the resolution, rather, the Resolution 2023-261 was motioned, seconded, and then voted on by the Mayor and Counsel, with the same ultimately passed by a vote of 4-3 with Mayor Kim breaking the tie, which placed Plaintiff on administrative leave with pay, including all emoluments, retroactive to November 2, 2023, pending the conclusion of the Borough's internal investigation. See Kim Cert., Exhibit J.

As such, the Borough complied with N.J.S.A. §10:4-15(a) by taking corrective action (retroactively) at its December 31, 2023 meeting, rendering this Order to Show Cause moot.

As set forth above, this action is permitted under the both statutory and case law under N.J.S.A. §10:4-15(a), as well as the litany of cases which permit the Borough to take corrective action following claims that the initial meeting did not comply with the OPMA. Following the statutory requirements, the Borough made a **corrective or remedial action by acting de novo at a public meeting held in conformity with this act and other applicable law regarding any**

action which may otherwise be voidable pursuant to the OPMA. Furthermore, the Borough provided advance published notice of at least 48 hours is provided as required by law.

As such, the Plaintiff's Verified Complaint and Order to Show Cause is now moot and must be denied. Because the Plaintiff's Verified Complaint and Order to Show Cause argues for the rescinding of Resolution 2023-226 (which already has been rescinded and replaced by Resolution 2023-261) there is no cause of action for which the Court can grant relief, and therefore, the Court must dismiss the Plaintiff's Verified Complaint with Prejudice.

II. THE POSTED NOTICE CONFORMS WITH THE OPEN PUBLIC MEETINGS ACT AS IT WAS ADEQUATE TO INFORM THE PUBLIC OF A PERSONNEL DECISION.

As set forth above, the Borough's actions at the November 2, 2023 Special Meeting have been corrected de novo by the actions taken at the December 31, 2023 Special Meeting. As such, the Plaintiff's claims that the posted Notice violated the OPMA are moot. Even if the Court does not deem the claims in this count to be moot (which it should), the posted agenda of the December 31, 2023 was fully compliant with the OPMA. Nevertheless, the Plaintiff alleges that the Notice and Agenda posted on the Borough's bulletin board was deficient.

In La Fronz v. Weehawken Bd. of Ed., 395 A.2d 538 (N.J. Super. App. Div. 1978), the validity of personnel-related resolutions passed at a special meeting were challenged on the ground that the published notice with the agenda did not detail the specific subject matter of the resolutions, but rather, simply included among its listed items of business the subject matter of "personnel[.]" The Appellate Division held that use of the term "personnel" in the notice and agenda was "good and sufficient notice" under N.J.S.A. §10:4-8(d) to cover the resolutions. 395 A.2d at 539.

On October 31, 2023, the Borough published a Notice on its bulletin board that stated:

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act (“OPMA”), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisade Park Mayor and Council will hold a Special Meeting on Thursday, November 2, 2023 1:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:
in Personnel – N.J.S.A. 10:4-12(b)(8)

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By order of:
Mayor and Council
Gina S. Kim, RMC, CMC
Borough Clerk
The Record November 3, 2023
Fee: 23.76 (27) 0009472934
[See Malagiere Certif. Exhibit D; Pl. Compl. ¶21]

Notwithstanding the fact that the Borough ultimately took corrective action, as detailed above, this notice met all the requirements of the OPMA, and is deemed sufficient by La Fronz, 395 A.2d 538. For this reason alone, the Court must deny the Plaintiff’s Order to Show Cause and dismiss the Verified Complaint.

Additionally, in taking corrective action under N.J.S.A. 10:4-15(a), on the Borough published the following notice at the Borough Hall bulletin board, on its website, and published the same with 48-hour advance notice in the Bergen Record and Star Ledger as required by the OPMA.

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act (“OPMA”), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650.

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

OFF CONSENT AGENDA:

Authorization to place employee on leave

Appointment of Police Director

Appointment of Special Legal Counsel

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By Order of:

Mayor and Council

Gina S. Kim, RMC, CMC

Borough Clerk

[See Kim Cert. Exhibit F.]

As set forth above, the Appellate Division has previously confirmed that the use of the term “personnel action” in the agenda was “good and sufficient notice” under N.J.S.A. 10:4-8(d) to cover the resolutions. Here the Borough took even more precautions and specifically stated that they were discussing a resolution for “authorization to place employee on leave” at the December 31, 2023 meeting. See Kim Cert., Exhibit F. The Borough placed proper notices in the newspapers [Kim Cert., Exs. D, E, H, and I]. The Borough properly served Plaintiff with a Rice Notice [Kim Cert., Ex. G]. The Borough therefore complied with all applicable notice requirements under the OPMA, making the Plaintiff’s claims moot. Since the Borough has explicit authority to take corrective action under N.J.S.A. 10:4-15(a), the corrective action renders the Plaintiff’s claim

baseless. The corrective notice posted above meets all the requirements of the OPMA, and as such, the Plaintiff's claims that the Notice and published agenda were insufficient is both baseless in law and fact, and must be dismissed as a matter of law.

As such, the Plaintiff's Verified Complaint and Order to Show Cause is now moot and must be denied. Because the Plaintiff's Complaint merely calls for a rescinding of Resolution 2023-226 (which already has been rescinded and replaced by Resolution 2023-261) there is no cause of action for which the Court can grant relief, and therefore, the Court must dismiss the Plaintiff's Verified Complaint with Prejudice.

CONCLUSION

For the reasons set forth above, the plaintiff has failed to establish by clear and convincing evidence that the Borough violated the Open Public Meetings Act, and thus cannot sustain a cause of action before the Court. As such, the Plaintiff's Order to Show Cause must be denied, and the Verified Complaint must be dismissed with prejudice.

Respectfully Submitted,

/s/ Mark J. Semeraro, Esq.
Mark J. Semeraro, Esq.

Dated: January 5, 2024

SEMERARO & FAHRNEY, LLC

R. Scott Fahrney, Esq. | SBN # 017182008
155 Route 46, Suite 108
Wayne, New Jersey 07470
TEL. (973) 988-5070
Email sfahrney@semerarolaw.com
Attorneys for Defendants

DAVID LORENZO

Plaintiff

vs.

BOROUGH OF PALISADES PARK;
MAYOR AND COUNCIL OF PALISADES
PARK

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

DOCKET NO.: BER-L-6632-23

A Civil Action

**CERTIFICATION OF
GINA S. KIM, RMC, CMC**

I, Gina S. Kim, RMC, Case Management Conference, do hereby affirm or certify as follows:

1. I am the Municipal Clerk for the Borough of Palisades Park, New Jersey.

The November 2, 2023 Special Meeting

2. On October 31, 2023, at approximately 10:10 am, I sent the Notice of the Special Meeting to the Bergen Record (the official paper of the Borough), asking that the paper “publish the attached notice as soon as possible in the Record newspaper” and therefore complied with the Open Public Meetings Act.
3. Attached as Exhibit A, is a true and complete copy of my email to the Bergen Record dated October 31, 2023.
4. Immediately thereafter, I sent the Notice of the Special Meeting to the Star Ledger (the official paper of the Borough), asking that the paper “publish the attached notice as soon as possible in the Star-Ledger” and therefore complied with the Open Public Meetings Act.
5. Attached as Exhibit B, is a true and complete copy of my email to the Star Ledger dated October 31, 2023.

6. On October 31, 2023, notice of the November 2, 2023 Special Meeting was also posted on the Borough's Bulletin Board at Borough Hall as per the requirements of the N.J.S.A. 10:4-8 as well as on the Borough's website under Notices.
7. On November 2, 2023, the Borough of Palisades Park placed the Plaintiff on administrative leave with full pay and benefits under Resolution 2023-226.
8. Attached hereto as Exhibit C, is a true and complete copy of Resolution 2023-226.

The Corrective Action pursuant to N.J.S.A. 10:4-15(a)

9. On December 26, 2023, I was asked by the Mayor and Borough Council of Palisades Park to call for a Special Meeting of the Borough Council to be conducted on December 31, 2023.
10. On December 26, 2023, at approximately 1:19 pm, I sent the Notice of the Special Meeting to the Bergen Record (the official paper of the Borough), asking that the paper "publish the attached notice as soon as possible in the Record newspaper" and therefore complied with the Open Public Meetings Act.
11. See attached as Exhibit D, a true and complete copy of my email to the Bergen Record dated December 26, 2023.
12. On December 26, 2023, at approximately 1:21 pm, the Borough Clerk sent the Notice of the Special Meeting to the Newark Star Ledger (the official paper of the Borough), asking that the paper "publish the attached notice as soon as possible in the Star-Ledger" and therefore complied with the Open Public Meetings Act.
13. See attached as Exhibit E, a true and complete copy of my email to the Star Ledger dated December 26, 2023.

14. On December 26, 2023, Notice of the December 31, 2023 Special Meeting was also posted on the Borough's Bulletin Board at Borough Hall as per the requirements of the N.J.S.A. 10:4-8 as well as on the Borough's website under Notices.
15. On December 26, 2023 at approximately 1:50 pm, the Agenda for the December 31, 2023 Special Meeting was also posted on the Borough's Bulletin Board at Borough Hall as per the requirements of the N.J.S.A. 10:4-8 as well as on the Borough's website under Notices.
16. Attached as Exhibit F, is a true and complete copy of the posted Agenda for the December 31, 2023 Special Meeting.
17. On December 26, 2023, Plaintiff was provided with a Rice Notice by Borough Counsel via email, regular mail and hand delivered courier, with the hand delivery being served upon the Plaintiff on December 27, 2023 at 8:38 am.
18. Attached as Exhibit G, is a true and complete copy of the Rice Notice, with delivery receipt.
19. On December 29, 2023, the Notice of the December 31, 2023 Special Meeting was published in the Bergen Record (the official paper of the Borough) in accordance with the OPMA.
20. Attached as Exhibit H, is a true and complete copy of the Bergen Record's Affidavit of Publication of the Notice of the December 31, 2023 Special Meeting.
21. On December 29, 2023, the Notice of the December 31, 2023 Special Meeting was published in the Star-Ledger (the official paper of the Borough) in accordance with the OPMA.
22. Attached as Exhibit I, is a true and complete copy of the Star Ledger's Affidavit of Publication of the Notice of the December 31, 2023 Special Meeting.

23. On December 31, 2023, the Mayor and Council, conducted no discussion on the personnel action in executive session and then voted on Resolution 2023-261, with the same ultimately passed by a vote of 4-3 with Mayor Kim breaking the tie, which placed Plaintiff on administrative leave with pay, including all emoluments, effective November 2, 2023, pending the conclusion of the Borough's internal investigation.

24. Attached as Exhibit J, is a true and complete copy of Resolution 2023-261.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Gina S. Kim, RMC, CMC
Borough of Palisades Park

Dated: January 4, 2024

Exhibit A

Scott Fahrney

From: Gannett Legals Public Notices 2 <ganlegpubnotices2@gannett.com>
Sent: Tuesday, October 31, 2023 12:07 PM
To: Gina Kim
Cc: Mary Leto; Sophia Jang
Subject: RE: Borough of Palisades Park (Acct #1459423) AD 9472934
Attachments: AD 9472934.pdf

Attached is a proof of the notice.

James Peace

Legal Clerk



USA TODAY
NETWORK

LOCALiQ

1-844-254-5256

jpeace@gannett.com

From: Gina Kim <gkim@palisadesparknj.us>
Sent: Tuesday, October 31, 2023 10:10 AM
To: LEGAL, BER <BERLEGAL@gannett.com>
Cc: Mary Leto <mlet@palisadesparknj.us>; Sophia Jang <sjang@palisadesparknj.us>
Subject: Borough of Palisades Park (Acct #1459423) AD 9472934

Good morning,

Kindly publish the attached notice as soon as possible in the Record newspaper.

Thank you.

Sincerely,

Gina S. Kim, RMC/CMC

Borough Clerk

275 Broad Ave

Palisades Park, NJ 07650

Office: (201) 585-4153

Fax: (201) 585-4155

<https://www.mypalisadespark.com>

Exhibit B

Scott Fahrney

From: NJ Advance Media Legal Advertising <legalads@support.njadvance-media.com>
Sent: Wednesday, November 1, 2023 11:19 AM
To: gkim@palisadesparknj.us
Subject: Re: [NJAM - I #632-96-276] 10785600 11/3 SL Borough of Palisades Park - Public Notice
Attachments: 0010785600.pdf

ATTN: Gina S. Kim

As per your request, your Legal ad will run in The Star-Ledger on 11/3/23.

Your notice will also appear on NJ.COM under Legal Notices for 30 days and on New Jersey Press Association's website <https://www.njpublicnotices.com/> in perpetuity.

For your reference:

- Ad number: 10785600
- Account number: XPALI4100970 PALISADES PARK BOROUGH • Cost: \$24.08 • Affidavit: None Requested

Please confirm receipt of this email - attached is a proof of your ad.

Please review for corrections if needed (if anything is missing, needs to be revised, and/or removed from the ad text) reply back with approval of the ad copy or any corrections or revises by deadline for changes by – WEDS., 5PM.

Your response is required by deadline or your ad will publish as is.

You will receive the bill in your regular billing cycle.

Please contact us at: legalads@njadvancemedia.com or call 732-902-4318 for any concerns.

Thank you for choosing the Star Ledger,

Cherilyn Alston
NJ Advance Media
Operations Coordinator, Inside Sales

*** Advertising Terms and Conditions ***

This confirms that any advertisements submitted by you are subject to the terms and conditions contained in the following link: <http://www.njadvancemedia.com/terms-and-conditions/>. By proceeding to submit the advertisements, you are acknowledging your agreement to these terms and conditions.

On Tue, 31 Oct 2023, gkim@palisadesparknj.us wrote:

> Good morning,

>

> Kindly publish the attached notice as soon as possible in the

> Star-Ledger newspaper.

>

> Thank you.

>

> Sincerely,

> Gina S. Kim, RMC/CMC

> Borough Clerk

> 275 Broad Ave

> Palisades Park, NJ 07650

> Office: (201) 585-4153

> Fax: (201) 585-4155

> <https://www.mypalisadespark.com>

Exhibit C

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang	X		X			
Kim						X
Min			X			
Park		X	X			
Pirrera						X
Vietri				X		

NO. 2023-226
DATE November 2, 2023
Carried ☒ Defeated ☐ Tabled ☐
Approved on Consent Agenda ☐

WHEREAS, David Lorenzo is presently the Borough Administrator pursuant to N.J.S.A 40A:9-137;
and

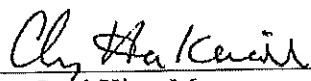
WHEREAS, this Governing Body, for confidential and personnel reasons pertaining to this appointment as Business Administrator, must take certain personnel actions during the pendency of an internal investigation.

NOW, THEREFORE, BE IT RESOLVED, this Governing Body authorizes the immediate placement of David Lorenzo, Borough Administrator, on administrative leave with pay, including all emoluments, effective immediately, pending the conclusion of the Borough's internal investigation; and


BE IT FURTHER RESOLVED, that the Borough requires David Lorenzo to immediately cease all duties and operations of Borough Administrator; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

Approved:


Chong Paul Kim, Mayor

Attest:


Sophia H. Jang, Deputy Borough Clerk

I hereby certify that the above is a true copy of a Resolution adopted by the Mayor and Council of the Borough of Palisades Park at a Special Meeting held on November 9, 2023.

SEAL

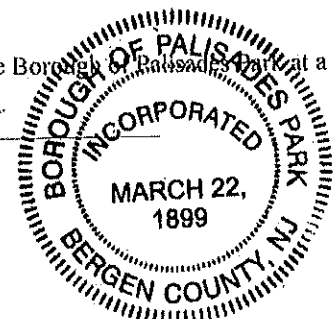


Exhibit D

Scott Fahrney

Begin forwarded message:

From: Gina Kim <gkim@palisadesparknj.us>
Date: December 26, 2023 at 13:19:46 EST
To: BERLEGAL@gannett.com
Cc: Sophia Jang <sjang@palisadesparknj.us>, Mary Leto <mleto@palisadesparknj.us>, Mayor Kim <mayorkim@palisadesparknj.us>, Allan Roth <aroth@rrlaborlaw.com>
Subject: Borough of Palisades Park (Acct #1459423)

Good afternoon,

Kindly publish the attached ad in the Record newspaper as soon as possible.

Thank you.

Sincerely,
Gina S. Kim, RMC/CMC
Borough Clerk
275 Broad Ave
Palisades Park, NJ 07650
Office: (201) 585-4153
Fax: (201) 585-4155
<https://www.mypalisadespark.com>

NOTICE: This message and any attachments contain information which may be confidential and privileged. Unless you are an intended recipient (or authorized to receive for an intended recipient), you may not review, use, copy, disclose, or

transmit to anyone the message or any information contained in the message or any attachments. If you have received the message in error, please advise the sender by reply email and delete the message. To ensure compliance with requirements imposed by the IRS in Circular 230 effective June 21, 2005, we inform you that any United States federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. Thank you very much.

BOROUGH OF PALISADES PARK

To: The Record **Date:** December 26, 2023

RE: NOTICE OF SPECIAL MEETING **PO #:**

NOTES: PLEASE PUBLISH IN THE LEGAL SECTION OF YOUR NEWSPAPER **AS SOON AS POSSIBLE**,

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650.

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

OFF CONSENT AGENDA:

Authorization to place employee on leave

Appointment of Police Director

Appointment of Special Legal Counsel

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By Order of:
Mayor and Council
Gina S. Kim, RMC, CMC
Borough Clerk

Exhibit E

Scott Fahrney

Begin forwarded message:

From: Gina Kim <gkim@palisadesparknj.us>
Date: December 26, 2023 at 13:21:52 EST
To: NJ Advance Media Legal Advertising <legalads@support.njadvance-media.com>
Cc: Sophia Jang <sjang@palisadesparknj.us>, Mary Leto <mleto@palisadesparknj.us>, Mayor Kim <mayorkim@palisadesparknj.us>, Allan Roth <aroth@rrlaborlaw.com>
Subject: Borough of Palisades Park - Public Notice

Good afternoon,

Kindly publish the attached ad in the Star Ledger newspaper as soon as possible.

Thank you.

Sincerely,
Gina S. Kim, RMC/CMC
Borough Clerk
275 Broad Ave
Palisades Park, NJ 07650
Office: (201) 585-4153
Fax: (201) 585-4155
<https://www.mypalisadespark.com>

NOTICE: This message and any attachments contain information which may be confidential and privileged. Unless you are an intended recipient (or authorized to receive for an intended recipient), you may not review, use, copy, disclose, or transmit to anyone the message or any information contained in the message or any attachments. If you have received

the message in error, please advise the sender by reply email and delete the message. To ensure compliance with requirements imposed by the IRS in Circular 230 effective June 21, 2005, we inform you that any United States federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. Thank you very much.

BOROUGH OF PALISADES PARK

To: The Star Ledger **Date:** December 26, 2023

RE: NOTICE OF SPECIAL MEETING **PO #:**

NOTES: PLEASE PUBLISH IN THE LEGAL SECTION OF YOUR NEWSPAPER **AS SOON AS POSSIBLE**.

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650.

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

OFF CONSENT AGENDA:

Authorization to place employee on leave

Appointment of Police Director

Appointment of Special Legal Counsel

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By Order of:
Mayor and Council
Gina S. Kim, RMC, CMC
Borough Clerk

Exhibit F

BOROUGH OF PALISADES PARK

AGENDA
December 31, 2023

SPECIAL MEETING
4:00 P.M.

MAYOR CHONG PAUL KIM WILL CALL THE MEETING TO ORDER:

STATEMENT:

This is a Special Meeting of the Mayor and Council, and notice was given as follows:

1. Notice was filed December 26, 2023 with The Record & Newark Star Ledger, both official newspapers of the Borough.
2. Notice was posted on the Bulletin Board
3. Copy is preserved in the Clerk's Office.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE:

ROLL CALL:

Mayor Kim
Councilwoman Jang
Councilman Kim
Councilman Lee
Councilman Park
Councilwoman Pirrera
Councilman Vietri

Borough Attorney

EXECUTIVE SESSION:

RESOLUTION 2023-260 Authorization to Enter Executive Session

OFF CONSENT AGENDA:

RESOLUTION 2023-261 Authorization to place employee on leave

RESOLUTION 2023-262 Appointment of Police Director

RESOLUTION 2023-263 Appointment of Special Legal Counsel

COUNCIL REPORTS:

PUBLIC PARTICIPATION:

ADJOURNMENT:

Exhibit G

BOROUGH OF PALISADES PARK

275 Broad Avenue
Palisades Park, NJ 07065
Office of the Mayor

December 26, 2023

VIA CERTIFIED & REGULAR MAIL, COURIER and EMAIL

David Lorenzo
122 East Homestead Avenue
Apt. B
Palisades Park, 07650

**RE: Rice Notice
Sunday, December 31, 2023**

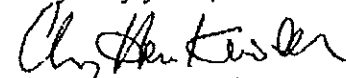
Dear Mr. Lorenzo:

Please be advised that at the Borough's special meeting, to be held on Sunday, December 31, 2023, beginning at 4:00 p.m., the Governing Body may discuss a change in terms and conditions of your employment. The meeting will be held at Borough Hall, 275 Broad Ave, Palisades Park, NJ.

Since this is a personnel matter, the Governing Body intends to discuss this matter during its executive session, which shall be closed to the public. Action, if any, will be taken in public. If there are any strictly personnel matters regarding your employment, notwithstanding litigation or pre-litigation items, you have the right to request, in writing, that the Governing Body conduct the discussion of these personnel items concerning your employment in public pursuant to the provisions of the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*), *Rice v. Union County Regional High School Bd. Of Ed.*, 155 NJ Super 64 (App. Div. 1977); cert. den., 76 N.J. 238 (1978) and *Kean Federation of Teachers v. Morell*, 233 N.J. 566 (2018). If you decide to exercise this right, you must notify me, in writing, by returning a copy of this letter, by no later than 12:00 p.m. on Friday, December 29, 2023. If you do not inform me of your election by the date and time noted herein, it will be assumed that you wish any discussion regarding the terms and conditions of your employment by the Governing Body to be held in executive session.

If you have any questions, please feel free to contact me.

Very truly yours,


Hon. Chon Paul Kim
Mayor

Account No: 4298A-03
Ruderman & Roth, LLC
Ruderman & Roth, LLC
150 MORRIS AVENUE
Suite 303 / 3rd Fl
SPRINGFIELD, NJ 07081

Billing Reference No: Palisades Park

Delivery Instructions : PLEASE LEAVE IF NO ANSWER

LREX

TRACKING # 26775380
Label Date: 12/26/2023 11:23 AM



RECIPIENT

David Lorenzo
David Lorenzo
122 East Homestead Avenue
Apartment B
Palisades Park, NJ 07650-3008

0

Package History

Shipment Delivered (0) 12/27/2023 08:38AM

**Processed at NJLS Facility
(NTH)** 12/27/2023
12:56AM

**Picked up from drop box
(PU2)** 12/26/2023
06:56PM

Printed Shipment Label 12/26/2023 11:23AM

Exhibit H

*** LocaliQ**
New York/New Jersey
GANNETT

Agency:

Palisades Park Boro Of
275 Broad Ave
Palisades Park NJ 07650-1534
Acct: 1185870

Client:

Palisades Park Boro Of
275 Broad Ave
Palisades Park NJ 07650-1534
Acct: 1185870

This is not an invoice

Order #	Advertisement / Description	Columns x Lines x Insertions	Rate per Lines	Cost
9673023	NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL The following notice is t	1 x 41.00 x 1	\$0.44	\$48.04
		Net Total Due:		\$48.04

PO #: _____

Check #: _____

Date: _____

CERTIFICATION BY RECEIVING AGENCY
I, HAVING KNOWLEDGE OF THE FACTS, CERTIFY AND DECLARE THAT THE GOODS HAVE BEEN RECEIVED OR THE SERVICES RENDERED AND ARE IN COMPLIANCE WITH THE SPECIFICATIONS OR OTHER REQUIREMENTS, AND SAID CERTIFICATION IS BASED ON SIGNED DELIVERY SLIPS OR OTHER REASONABLE PROCEDURES OR VERIFIABLE INFORMATION.

SIGNATURE: _____

TITLE: _____ DATE: _____

CERTIFICATION BY APPROVAL OFFICIAL
I CERTIFY AND DECLARE THAT THIS ORDER CONFIRMATION IS CORRECT, AND THAT SUFFICIENT FUNDS ARE AVAILABLE TO SATISFY THIS CLAIM. THE PAYMENT SHALL BE CHARGEABLE TO:

APPROPRIATION ACCOUNT(S) AND AMOUNTS CHARGED: P.O.# _____

SIGNATURE: _____

TITLE: _____ DATE: _____

CLAIMANT'S CERTIFICATION AND DECLARATION:

I DO SOLEMNLY DECLARE AND CERTIFY UNDER THE PENALTIES OF THE LAW THAT THIS ORDER CONFIRMATION IS CORRECT IN ALL ITS PARTICULARS; THAT THE GOODS HAVE BEEN FURNISHED OR SERVICES HAVE BEEN RENDERED AS STATED HEREIN; THAT NO BONUS HAS BEEN GIVEN OR RECEIVED BY ANY PERSON OR PERSONS WITHIN THE KNOWLEDGE OF THIS CLAIMANT IN CONNECTION WITH THE ABOVE CLAIM; THAT THE AMOUNT HEREIN STATED IS JUSTLY DUE AND OWING; AND THAT THE AMOUNT CHARGED IS A REASONABLE ONE.

Date: 01/04/2024

Signature: Keegan Livan

Federal ID #: 061032273

Official Position: Clerk

Kindly return a copy of this order confirmation with your payment so that we can assure you proper credit.

The Record and Herald News

Gannett New York-New Jersey LocaliQ
PO Box 6312102 Cincinnati, OH 45263-1202

AFFIDAVIT OF PUBLICATION

Order Number : 9673023

STATE OF WISCONSIN
Brown County

Of The Record and Herald News, are the newspapers of general circulation and published in Hackensack and Woodland Park, in the Countles of Bergen and Passaic, and of general circulation in Bergen, Passaic, Essex, Hudson, Morris and Essex Counties, who being duly sworn, deposeeth and salth that the advertisement of which the annexed is a true copy, has been published in said newspaper in the Issue:

12/29/2023

Kerigan Loran
Legal Clerk

MHUR
Notary Public State of Wisconsin County of Brown

8.25.26
My commission expires

MARIAH VERHAGEN
Notary Public
State of Wisconsin

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650.

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

OFF CONSENT AGENDA:

Authorization to place employee on leave

Appointment of Police Director

Appointment of Special Legal Counsel

PLEASE BE ADVISED OFFICIAL
ACTION MAY BE TAKEN

By Order of:

Mayor and Council

Gina S. Kim, RMC, CMC

Borough Clerk

The Record/Herald News: 12/29 \$18.04

Exhibit I

----- Forwarded message -----

From: **NJ Advance Media Legal Advertising** <legalads@support.njadvance-media.com>
Date: Tue, Dec 26, 2023 at 2:03 PM
Subject: Re: [NJAM - I #931-25-612] 10808035 - 12/29 - SL - Borough of Palisades Park - Public Notice
To: <gkim@palisadesparknj.us>, Sophia Jang <sjang@palisadesparknj.us>, Mary Leto <mleto@palisadesparknj.us>, Mayor Kim <mayorkim@palisadesparknj.us>

ATTN: Gina

As per your request, your Legal ad will run in The Star-Ledger on December 29, 2023. Your notice will also appear on nj.com under Legal Notices for 30 days. Legal liner ads will also appear on New Jersey Press Association's website <https://www.njpublicnotices.com/> in perpetuity

For your reference:

- account number: XPALI4100970
- the ad number is: 10808035
- Cost: \$34.40, no affidavit requested

Please confirm receipt of this email - attached is a proof of your ad, please review for corrections if needed (if anything is missing, needs to be revised, and/or removed from the ad text) and reply back with approval of the ad copy or any corrections or revises by deadline, 9:00am Thursday, December 28, 2023.

PLEASE CONFIRM or your ad will run as is.

You will receive the bill within 10 business days of the ad's last publication date.

Please call 732-902-4318 with any questions.

Thank you for choosing the Star Ledger,

Jeanette Kryzimalski
NJ Advance Media
Operations Coordinator, Inside Sales

Advertising Terms and Conditions

This confirms that any advertisements submitted by you are subject to the terms and conditions contained in the following link: <http://www.njadvancemedia.com/terms-and-conditions/>. By proceeding to submit the advertisements, you are acknowledging your agreement to these terms and conditions.

On Tue, 26 Dec 2023, gkim@palisadesparknj.us wrote:

Good afternoon,

Kindly publish the attached ad in the Star Ledger newspaper as soon as possible.

Thank you.

Sincerely,
Gina S. Kim, RMC/CMC
Borough Clerk
275 Broad Ave
Palisades Park, NJ 07650
Office: (201) 585-4153
Fax: (201) 585-4155
<https://www.mypalisadespark.com>

NOTICE: This message and any attachments contain information which may be confidential and privileged. Unless you are an intended recipient (or authorized to receive for an intended recipient), you may not review, use, copy, disclose, or transmit to anyone the message or any information contained in the message or any attachments. If you have received the message in error, please advise the sender by reply email and delete the message. To ensure compliance with requirements imposed by the IRS in Circular 230 effective June 21, 2005, we inform you that any United States federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. Thank you very much.

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650.

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:

Personnel – N.J.S.A. 10:4-12(b)(8)

OFF CONSENT AGENDA:

Authorization to place employee on leave
Appointment of Police Director
Appointment of Special Legal Counsel

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By Order of:
Mayor and Council
Gina S. Kim, RMC, CMC
Borough Clerk
12/29/23 \$34.40

Exhibit J

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang	X		X			
Kim				X		
Lee			X			
Park		X	X			
Pirrera				X		
Vietri				X		

NO. 2023-261

DATE December 31, 2023

Carried ☒ Defeated ☐ Tabled ☐

Approved on Consent Agenda ☐

*Mayor Kim broke the tie; voted yes to adopt Resolution #2023-261.

WHEREAS, David Lorenzo is presently the Borough Administrator pursuant to N.J.S.A 40A:9-137;
and

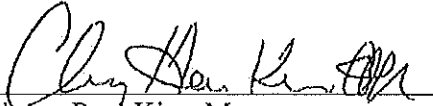
WHEREAS, this Governing Body, for confidential and personnel reasons pertaining to this appointment as Business Administrator, must take certain personnel actions during the pendency of an internal investigation.

NOW, THEREFORE, BE IT RESOLVED, this Governing Body authorizes the immediate placement of David Lorenzo, Borough Administrator, on administrative leave with pay, including all emoluments, effective November 2, 2023, pending the conclusion of the Borough's internal investigation; and


BE IT FURTHER RESOLVED, that the Borough requires David Lorenzo to immediately cease all duties and operations of Borough Administrator; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

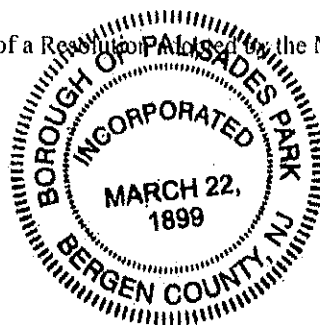
Approved:


Chong Paul Kim, Mayor

Attest:


Gina S. Kim, Borough Clerk

I hereby certify that the above is a true copy of a Resolution adopted by the Mayor and Council of the Borough of Palisades Park at a Special Meeting held on December 31, 2023.



SEAL

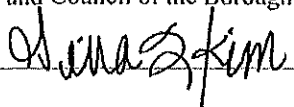


Exhibit 3

THE LAW OFFICES OF RICHARD MALAGIERE
A Professional Corporation
250 Moonachie Road, Suite 300A
Moonachie, New Jersey 07074
(201) 440-0675
Richard Malagiere Attorney ID: (037951996)
Leonard E. Seaman Attorney ID: (035021990)
Giancarlo Ghione Attorney ID: (294482020)
Attorneys for Plaintiff

DAVID LORENZO

PLAINTIFF,

V.

**BOROUGH OF PALISADES PARK;
MAYOR AND COUNCIL OF
PALISADES PARK**

DEFENDANTS.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO.: BER-L-6632-23

CIVIL ACTION

**FIRST AMENDED VERIFIED
COMPLAINT**

Plaintiff David Lorenzo by way of verified complaint against Defendants Borough of Palisades Park, and Mayor and Council of Palisades Park (collectively “Defendants”) says:

ABSTRACT STATEMENT

On December 8, 2023, Plaintiff David Lorenzo filed its verified complaint alleging Defendants violated the Open Public Meetings Act when it held its November 2, 2023, special meeting. The Open Public Meetings Act was violated at the November 2, 2023, special meeting because (1) Defendants failed to properly notice the special meeting in two newspapers in Palisades Park’s general circulation and (2) defendants failed to provide the agenda to the extent it was known at the time of the publication of the special meeting’s public notice.

On December 31, 2023, Defendants held a special meeting to correct these deficiencies. The Defendants again violated the Open Public Meetings Act at the December 31, 2023, meeting, because Defendants (1) defendants failed to provide the agenda to the extent it was known at the time

of the publication of the special meeting's public notice and (2) for entering executive closes session after Plaintiff waived his right to have his employment discussed in a closed executive session. This amended verified complaint adds relevant facts and two counts relating to the December 31, 2023 meeting. The amendment is made pursuant to Rule 4:9-1 which permits a party to amend a pleading as a matter of right before a responsive pleading is served.

THE PARTIES

1. Plaintiff David Lorenzo is a resident of Palisades Park. Lorenzo is the Borough Administrator of Palisades Park.

2. Defendant Borough of Palisades Park is a body politic and corporate of the State of New Jersey and the governing body of the Borough of Palisades Park located in the County of Bergen.

3. The Defendant Mayor and Council of Palisades Park is the governing body of the Borough of Palisades Park.

VENUE

4. Venue is properly laid in Bergen County because the defendants are public bodies located in Bergen County. R. 4:3-2(a).

FACTUAL ALLEGATIONS

5. On January 3, 2023 the defendant Borough of Palisades Park passed Resolution 2023-9 setting the schedule of Mayor and Council meetings for the year of 2023. A true and accurate copy of Resolution 2023-9 is attached hereto as Exhibit A.

6. The Record and Newark Star Ledger were named as the official newspapers for Palisades Park at the February 27, 2023 mayor and council meeting. A true and accurate copy of the relevant portions of Resolution 2023-1 is attached hereto as Exhibit D.

7. On November 2, 2023 defendant Borough of Palisades Park held a special council

meeting at 1:00 PM at which time it suspended and placed on administrative leave the Plaintiff – Borough Administrator.

8. Plaintiff is the president of the Palisades Park Democratic Club. Plaintiff and the Palisades Park Democratic Club ceased supporting members of defendant Palisades Park Mayor and Council in the 2023 election cycle¹.

9. An election was held on Tuesday November 7, 2023 – five days after the November 2, 2023 special meeting.

10. On October 31, 2023, Plaintiff was provided with Rice notice via email. Upon information and belief, the notice was prepared by Mayor Paul Kim. A true and accurate copy of the email providing Plaintiff with Rice notice is attached hereto as Exhibit B.

11. On October 31, 2023 Plaintiff responded and waived his right to closed session and asked that any matter related to his employment be discussed in open session. See Exhibit B.

12. The Rice notice provided to Plaintiff was dated October 30, 2023. A true and accurate copy of the Rice notice is attached hereto as Exhibit C.

13. An agenda with no specific items of business relating to the November 2, 2023 special meeting was posted on the Borough’s website in advance of the special meeting.

14. The only item of business identified on the agenda posted on the Borough’s website was “Resolution 2023-223 Authorization to Enter Executive Session.” See, Certification of Richard Malagiere (“Malagiere Cert.”) Exhibit B.

15. A “revised” agenda was provided to Plaintiff’s counsel in response to an OPRA request which is/was not posted online. See, Malagiere Cert. Exhibit C.

¹ <https://www.nj.com/bergen/2023/11/town-official-suspended-after-ordering-candidates-name-removed-from-campaign-signs-lawsuit-says.html> (Last visited December 8, 2023)

16. The revised agenda adds three “Off Consent Agenda”:

- i) RESOLUTION 2023-224 Authorization to Place Employee on Administrative Leave (RE: D. Lorenzo)
- ii) RESOLUTION 2023-225 Appointment of Police Director (RE: M. Gardner)
- iii) RESOLUTION 2023-226 Appointment of Special Counsel (RE: Ruderman & Roth, LLC)
[See, Malagiere Certif. Exhibit C]

17. Notice of the special meeting was published in The Record and Newark Star Ledger on November 3, 2023 (**one day after the special meeting**). See, Malagiere Cert. Exhibit D; Ghione Certif. Exhibit B.

18. Notices of public meetings published in The Record and Herald News are submitted electronically to the newspaper through an online portal maintained by Gannett. See Certification of Giancarlo Ghione (“Ghione Cert.”) ¶4.

19. NJ Advance Media provides an email address on its website to publish notices. See Ghione Certif. ¶6.

20. According to the OPRA request submitted by Richard Malagiere, Esq., the notice of the special meeting was advertised to the public in The Record newspaper **one (1) day after** the special meeting took place.

21. The notice in its entirety stated:

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL

The following notice is transmitted in accordance with the Open Public Meetings Act (“OPMA”), N.J.S.A. 10:4-6 et seq.

PLEASE TAKE NOTICE that the Palisade Park Mayor and Council will hold a Special Meeting on Thursday, November 2, 2023 1:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650

The agenda insofar as it is known at this time is consideration of the following:

EXECUTIVE SESSION:
Personnel – N.J.S.A. 10:4-12(b)(8)

PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN

By order of:
Mayor and Council
Gina S. Kim, RMC, CMC
Borough Clerk

The Record November 3, 2023
Fee: 23.76 (27) 0009472934
[See Malagiere Certif. Exhibit D]

22. An identical version of the public notice published in The Record and Herald News was published in the Newark Star Ledger. See, Ghione Certif. Exhibit B.

23. The Record and Herald News have available Deadlines for Public Notices advising by what day and time public notices need to be submitted to be published by a certain time. See, Ghione Certif. Exhibit A.

24. The Star Ledger has a deadline date of at least 3 business days prior to the requested publication date submitted by or before 3:00 pm. See, Ghione Certif. Exhibit C.

25. The public notice of the November 2, 2023 special meeting was published in the November 3, 2023 newspapers.

26. It appears clear that The Record, Herald News, and Newark Star Ledger needed to have notice of the November 2, 2023 special meeting by October 27, 2023 to publish by November 1, 2023 in advance of the November 2, 2023 meeting.

27. There was no discussion relating to the suspension of plaintiff upon Resolution 2023-224 being introduced.

28. The Mayor and Council of the Borough of Palisades Park voted (3 in favor and 1 opposed, with the mayor not voting and 2 council persons absent) to place Plaintiff David Lorenzo,

Borough Administrator “on administrative leave” at the illegal November 2, 2023 special meeting.

29. Upon information and belief, the illegal meeting was held for political purposes (five (5) days before election day) and to further its retaliation against plaintiff for exercising his first amendment right to support candidates other than Suk Kim (who voted in favor of suspending the Plaintiff).

30. A copy of the resolutions passed at the November 2, 2023 meeting were not provided in response to Mr. Malagiere’s OPRA request. The Borough’s reason was: “[n]o records; the Resolutions are under attorney review.” See Malagiere Certif. Exhibit A.

31. On December 29, 2023, defendants published notice of a December 31, 2023, special council meeting in The Record and The Star Ledger. A true and accurate copy of the Newark Star Ledger and The Record public notices are attached hereto as Exhibit E.

32. The notice in its entirety stated:

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL
The following notice is transmitted in accordance with the Open Public Meetings Act (“OPMA”), N.J.S.A. 10:4-6 et seq. PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650. The agenda insofar as it is known at this time is consideration of the following: EXECUTIVE SESSION: Personnel – N.J.S.A. 10:4-12(b)(8) OFF CONSENT AGENDA: Authorization to place employee on leave Appointment of Police Director Appointment of Special Legal Counsel PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN By Order of: Mayor and Council Gina S. Kim, RMC, CMC Borough Clerk. The Mayor and Council of the Borough of Palisades Park voted (3 in favor and 1 opposed, with the mayor not voting and 2 council persons absent) to place Plaintiff David Lorenzo, Borough Administrator “on administrative leave” at the illegal November 2, 2023 special meeting.

33. The Mayor and Council of the Borough of Palisades Park voted (4 in favor and 3 opposed, with the mayor voting in favor as the tie breaking vote) to place Plaintiff David Lorenzo, Borough Administrator “on administrative leave” at the illegal December 31, 2023 special meeting.

34. On December 28, 2023 plaintiff received a Rice Notice advising him that his employment would be discussed at a December 31, 2023, special mayor and council meeting. A true and accurate copy of this Rice Notice is attached hereto as Exhibit F.

35. On December 28, 2023 plaintiff waived his right to closed session and asked that any matter related to his employment be discussed in open session. A true and accurate copy of Plaintiff waiving his right to closed session is attached hereto as Exhibit G.

36. Upon information and belief, Defendants entered closed executive session at the December 31, 2023 meeting and discussed plaintiff's employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of plaintiff.

37. On January 3, 2023, my attorney submitted an OPRA request on my behalf. This OPRA request sought:

- 1) Public Notice, including certification of publication, of the December 31, 2023, council meeting
 - 2) Agenda for the December 31, 2023, council meeting
 - 3) Meeting minutes for the December 31, 2023, council meeting
 - 4) Closed session meeting minutes of the December 31, 2023, council meeting
 - 5) Resolutions passed at the December 31, 2023, council meeting
 - 6) Transcript of the December 31, 2023, council meeting
 - 7) Audio file of the December 31, 2023, council meeting
- [A true and accurate copy of this OPRA request is attached hereto as Exhibit H.]

COUNT ONE

(FAILURE TO PROVIDE ADEQUATE NOTICE OF THE SPECIAL MEETING IN TWO NEWSPAPERS THAT HAVE A LIKELIHOOD OF INFORMING THE PUBLIC AND NOTICE WAS NOT PROVIDED IN A TIMELY MANNER FOR THE NOTICE TO RUN IN ADVANCE OF THE SPECIAL MEETING PURSUANT TO N.J.S.A. 10:4-8)

38. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

39. Defendants had actual or ascertainable knowledge that the public notice could not have been published in advance of the November 2, 2023 Special Meeting based upon when the

notice was provided to the newspapers.

40. Defendants were expected to be aware of time requirements for mail delivery and publication of public notices.

41. Defendants failed to provide such prior notice in a timely manner resulting in notice of the special meeting being published on November 3, 2023, the day after the special meeting.

42. The Defendants did not provide adequate notice in violation of the Open Public Meetings Act by failing to make all reasonable efforts to have notice published in advance of the meeting and Resolution 2023-224 should therefore be declared null and void.

WHEREFORE, Plaintiff demands judgement as follows:

- A. An Order or Judgment voiding Resolution 2023-224 and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;
- B. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- C. Such other, further, and different relief as the Court may deem equitable and just.

COUNT TWO

(FAILURE TO PROVIDE NOTICE OF AGENDA KNOWN OF THE NOVEMBER 2, 2023
SPECIAL MEETING PURSUANT TO N.J.S.A. 10:4-8)

43. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

44. Defendants were required to provide adequate notice of the November 2, 2023 special meeting of the Palisades Park Mayor and Council per N.J.S.A. 10:4-8.

45. Defendants failed to provide the agenda to the extent known at the time of publication

of the special meeting's notice.

46. Defendants knew on October 30, 2023, that a Rice notice was being prepared and provided to plaintiff.

47. The agenda prepared and provided for on the notice did not include Resolution 2023-224 or any mention of Plaintiff.

48. Defendants prepared a revised agenda with three agenda items that were not included in the notice published in The Record and Herald News.

49. On October 31, 2023 plaintiff was provided with a Rice notice dated October 30, 2023. Plaintiff waived his right to closed session and asked any matter relating to his employment be discussed in open session.

50. The Defendants did not provide adequate notice by failing to include the agenda to the extent known in the notice of the special meeting in violation of the Open Public Meetings Act and therefore Resolution 2023-224 should be declared null and void.

WHEREFORE, Plaintiff demands judgement as follows:

- A. An Order or Judgment voiding Resolution 2023-224 and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;
- B. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- C. Such other, further and different relief as the Court may deem equitable and just.

COUNT THREE

(FAILURE TO PROVIDE NOTICE OF AGENDA KNOWN OF THE DECEMBER 31, 2023
SPECIAL MEETING PURSUANT TO N.J.S.A. 10:4-8)

51. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

52. Defendants were required to provide adequate notice of the December 31, 2023 special meeting of the Palisades Park Mayor and Council per N.J.S.A. 10:4-8.

53. Defendants failed to provide the agenda to the extent known at the time of publication of the special meeting's notice.

54. The notice published in The Record and Star Ledger provided an off-consent agenda item for "Authorization to place employee on leave" but failed to name plaintiff despite Defendants knowing Plaintiff was the employee to be placed on leave.

55. The agenda prepared and provided did not mention that Defendants sought to place the borough administrator on leave.

56. The Defendants provided Plaintiff with a Rice notice on December 28, 2023.

57. The Defendants at all times knew Plaintiff was the employee to be placed on leave but failed to identify him by name or title.

58. The Defendants did not provide adequate notice by failing to name plaintiff as the employee being placed on leave.

59. The Defendants failure to include the agenda to the extent known was violative of the Open Public Meetings Act and therefore any actions taken placing Plaintiff on leave should be declared null and void.

WHEREFORE, Plaintiff demands judgement as follows:

D. An Order or Judgment voiding the December 31, 2023 council meeting and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;

- E. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- F. Such other, further and different relief as the Court may deem equitable and just.

COUNT FOUR

(VIOLATION OF THE OPEN PUBLIC MEETINGS ACT BY EXCLUDING THE PUBLIC FROM DISCUSSION RELATING TO PLAINTIFF'S EMPLOYMENT IN ABUSE OF N.J.S.A. §10:4-12(b)(8))

60. Plaintiff hereby repeats and incorporates by reference all prior paragraphs of this Verified Complaint as though fully set forth herein.

61. Defendants' public meetings must always be open to the public except for reasons enumerated in the Open Public Meetings Act N.J.S.A. §10:4-12.

62. The Open Public Meetings Act provides employees with a right to have their employment or personnel matter discussed publicly, thereby preventing executive closed session discussion regarding their employment.

63. The public notice of the December 31, 2023 meeting stated the only executive session item was to be "Personnel - N.J.S.A. §10:4-12(b)(8)."

64. The only personnel issue to be considered at the December 31, 2023 special meeting was to place plaintiff on administrative leave.

65. On December 28, 2023, Plaintiff waived his right to have his matter discussed in closed session.

66. Upon waiving his right to have this employment discussed in closed session the need for closed session expired.

67. Defendants entered executive closed session and upon information and belief discussed Plaintiff and his employment in violation of the Open Public Meetings Act.

WHEREFORE, Plaintiff demands judgement as follows:

- A. An Order or Judgment voiding the December 31, 2023 council meeting and voiding any and all action taken to suspend or place on administrative leave the Borough Administrator David Lorenzo;
- B. An award of costs of this action and reasonable attorneys' fees to Plaintiff David Lorenzo; and
- C. Such other, further and different relief as the Court may deem equitable and just.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: January 4, 2024

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Richard Malagiere Esq., as trial counsel.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: January 4, 2024

CERTIFICATION PURUSANT TO R. 1:38-7(B)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: January 4, 2024

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief except for the federal matter captioned DAVID J. LORENZO v. THE BOROUGH OF PALISADES PARK, NEW JERSEY; CHONG PAUL KIM (individually and in his official capacity as Mayor of the Borough of Palisades Park, New Jersey); and SUK “JOHN” MIN (individually and in his official capacity as a member of the Borough Council of Palisades Park, New Jersey) bearing a case number of 2:23-cv-21849. To the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in the pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

The Law Offices of Richard Malagiere
Attorneys for Plaintiff
By: /s/Richard Malagiere
Richard Malagiere, Esq.

Dated: January 4, 2024

VERIFICATION

I, David Lorenzo, of full age and being duly sworn according to the law, upon my oath say:

1. I am the Plaintiff in the complaint to which this verification is attached. All of the facts stated in the verified complaint to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe those facts to be true.

2. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: January 4, 2024



David Lorenzo

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang						
Kim						
Park						
Pirrera						
Vietri						
Vacant						

NO. 2023-9
DATE January 3, 2023
Carried ☒ Defeated ☐ Tabled ☐
Approved on Consent Agenda ☒

BE IT RESOLVED, by the Mayor and Council of the Borough of Palisades Park, in compliance with the provisions of the Open Public Meetings Act as follows:

SECTION 1: Except as provided by Section 7b of the Act, all meetings of the Council shall be open to the public at all times.

SECTION 2: At every Work Session Meeting, the public may be heard and the Council may take formal action.

SECTION 3: At every Regular Public Meeting, the public may actively participate during the time or times designated for that purpose in the order of Business and the Council may take formal action.

SECTION 4: The Work Session & Regular Public Meetings of the Council shall be held in the Municipal Building, located at 275 Broad Avenue, Palisades Park, N.J. at 5:00 P.M. on the dates set forth below.

**SCHEDULE OF MAYOR & COUNCIL MEETINGS
FOR THE YEAR 2023**

Reorganization Meeting: Tuesday, January 3, 2023 at 6:00 P.M.	
Tuesday, January 31, 2023	Monday, July 24, 2023
Monday, February 27, 2023	Monday, August 28, 2023
Monday, March 27, 2023	Monday, September 25, 2023
Monday, April 24, 2023	Monday, October 23, 2023
Tuesday, May 30, 2023	Monday, November 27, 2023
Monday, June 26, 2023	Monday, December 18, 2023

SECTION 5: Within seven (7) days following the adoption of this Resolution, any revising or modifying of this Resolution:

- a. A copy shall be posted on the bulletin board accessible to the public at all business hours at or near the entrance to the Council Chambers, and shall remain so posted until replaced with a duly adopted Resolution setting forth any revision thereof.
- b. A copy shall be mailed to the Newark Star Ledger and The Record, both official newspapers circulating in the Borough of Palisades Park.

c. A copy shall be filed in the Borough Clerk's Office of the Borough of Palisades Park.

SECTION 6: Upon receipt by the Borough Clerk of a written request setting forth the name and address of the person making the request and accompanied by a fee of \$5.00, the Clerk shall send to such person by regular mail, between the date of such request and December 31 next ensuing, a copy of the Regular Meeting schedule referred to in Section 4, all revisions thereof, and all other advance notices of regular, special, rescheduled and canceled meeting dates. Like mailing shall be sent free of charge to all news media requesting such notices. All such requests shall terminate on December 31 next following the making of the request, but shall be subject to renewal upon receipt by the Borough Clerk of a renewal request and renewal fee.

Approved:

Attest:

Christopher J. Chung, Mayor

Sophia H. Jang, Deputy Borough Clerk

From: [Richard Malagiere](#)
To: [Giancarlo Ghione](#)
Subject: FW: [EXTERNAL] Re: RICE Notice
Date: Tuesday, December 5, 2023 4:23:58 PM

Richard Malagiere, Esq.
The Law Offices of Richard Malagiere
A Professional Corporation
250 Moonachie Road, Suite 300A
Moonachie, New Jersey 07074
Direct Dial: 201-509-4181
Office Phone: 201-440-0675
Office Fax: 201-440-1843
rm@malagierelaw.com
<http://www.malagierelaw.com>

From: Matthew Moench <mmoench@kingmoench.com>
Sent: Tuesday, October 31, 2023 1:19 PM
To: Dave Lorenzo <dlorenzo@palisadesparknj.us>
Cc: Gina Kim <gkim@palisadesparknj.us>; Sophia Jang <sjang@palisadesparknj.us>; Mayor Kim <mayorkim@palisadesparknj.us>; Richard Malagiere <rm@malagierelaw.com>
Subject: [EXTERNAL] Re: RICE Notice

Received.

On Oct 31, 2023, at 12:59 PM, Dave Lorenzo <dlorenzo@palisadesparknj.us> wrote:

Ms. Kim / Mr Moench;

Please be advised that I am in receipt of what 'appears' to be intended as a Rice notice clearly drafted by a non-lawyer and not proofread before delivery.

Notwithstanding, I am hereby exercising my right to waive closed session as it relates to my employment and ask that any matter

related to my employment be discussed in open session.

Be guided accordingly

Dave Lorenzo
BA

From: Gina Kim <gkim@palisadesparknj.us>
Sent: Tuesday, October 31, 2023 10:16 AM
To: Davide Lorenzo Boro Admin <dlorenzo@palisadesparknj.us>
Cc: Sophia Jang <sjang@palisadesparknj.us>; Mayor Kim
<mayorkim@palisadesparknj.us>; Matthew Moench <MMoench@kingmoench.com>
Subject: RICE Notice

Dear Mr. Lorenzo,

Attached please find a RICE Notice prepared by Mayor Kim.

Kindly confirm receipt.

Thank you.

Sincerely,
Gina S. Kim, RMC/CMC
Borough Clerk
275 Broad Ave
Palisades Park, NJ 07650
Office: (201) 585-4153
Fax: (201) 585-4155
<https://www.mypalisadespark.com>

October 30, 2023

VIA CERTIFIED & REGULAR MAIL and EMAIL

David Lorenzo

INSERT ADDRESS

**RE: Rice Notice
Thursday, November 2, 2023**

Dear Mr. Lorenzo:

Please be advised that at the Borough's special meeting, to be held on Thursday, November 2, 2023, beginning at 1:00 p.m., the Governing Body may discuss a change in terms and conditions of your employment.

Since this is a personnel matter, the Governing Body intends to discuss this matter during its executive session, which shall be closed to the public. Action, if any, will be taken in public. If there are any strictly personnel matters regarding your employment, notwithstanding litigation or pre-litigation items, you have the right to request, in writing, that the Governing Body conduct the discussion of these personnel items concerning your employment in public pursuant to the provisions of the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*), *Rice v. Union County Regional High School Bd. Of Ed.*, 155 NJ Super 64 (App. Div. 1977); cert. den., 76 N.J. 238 (1978) and *Kean Federation of Teachers v. Morell*, 233 N.J. 566 (2018). If you decide to exercise this right, you must notify me, in writing, by returning a copy of this letter, by no later than 12:00 p.m. on Thursday, November 2, 2023. If you do not inform me of your election by the date and time noted herein, it will be assumed that you wish any discussion regarding the terms and conditions of your employment by the Governing Body to be held in executive session.

If you have any questions, please feel free to contact me.

Very truly yours,

**RESOLUTION
BOROUGH OF PALISADES PARK
BERGEN COUNTY, NJ**

COUNCIL	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Jang			X			
Kim	X		X			
Park			X			
Pirrera			X			
Vietri			X			
Min		X	X			

NO. 2023-1
DATE February 27, 2023
Carried ☒ Defeated ☐ Tabled ☐
Approved on Consent Agenda ☒

RESOLUTION REGARDING NOMINATIONS AND/OR APPOINTMENTS FOR 2023

WHEREAS, in the November 2022 general election, Chong Paul Kim was elected to the office of Mayor, for a four-year term from January 1, 2023 to December 31, 2026; and

WHEREAS, the Borough of Palisades Park operates under the Borough form of government set forth at N.J.S.A. 40A:60-1 et seq.; and

WHEREAS, under N.J.S.A. 40A:60-5(g), the mayoral appointment power is established, which provides as follows:

“[tThe mayor shall nominate and, with the advice and consent of council, appoint all subordinate officers of the borough, unless the specific terms of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within thirty days of that office becoming vacant”

; and

WHEREAS, pursuant to same, Palisades Park Ordinance § 4-7(A) provides as follows:

Except as otherwise provided by statute, the Mayor shall nominate and, with the advice and consent of the Council, appoint all officers in the borough. No appointments requiring Council approval and confirmation shall be made except by a majority vote of the Council members present at the meeting, provided that at least three affirmative votes shall be required for such purpose, with the Mayor to have no vote thereon except in the case of a tie. A vacancy in an appointive office shall be filled by appointment in the same manner for the unexpired term only. The Mayor shall make such nomination to fill a vacancy within 30 days after the appointive office becomes vacant. If the Mayor fails to nominate within 30 days or the Council fails to confirm any nomination made by the Mayor, then, after the expiration of 30 days, the Council shall appoint the officer.

[(Emphasis added)].

; and

WHEREAS, Palisades Park Ordinance § 48-32 further provides:

Except as provided by state statute, all offices of the Borough of Palisades Park created by statute and/or ordinance shall be appointed by nomination of the Mayor with the advice and consent of Council.

EXHIBIT D TO THE VERIFIED COMPLAINT

COMMUNITY AFFAIRS COMMITTEE – 5 Year Term

Michael Lee	12/31/24
Mohammad Mansour	12/31/24
James Jhang	12/31/24
Youngmi Lee	12/31/24
Irene Grala	12/31/27
Sang Won Lee	12/31/27

EMERGENCY MANAGEMENT COORDINATOR – 3 Year Term

Alex Monteleone	12/31/23
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DEPUTY EMERGENCY MANAGEMENT COORDINATORS – 3 Year Term

Michael P. Vietri	12/31/23
Austin J. Ashley	12/31/23
George Beck Jr	12/31/23

SAFETY COMMITTEE

Robert DeVito	12/31/23
VACANT	12/31/23
Michael Valente	12/31/23

FIRE OFFICIAL

Andrew Chiurazzi	12/31/23
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FIRE DEPARTMENT CUSTODIAN

Alex Monteleone	12/31/23
-----------------	----------

POLICE & EMS CHAPLAIN

Rev. Minhyun Cho	12/31/23
Fr. Stephen Ehiahuruike	12/31/23
Pastor Dohwan Kim	12/31/23
Rev. Joshua Park	12/31/23

POLICE SURGEONS

Kenneth Choi	12/31/23
Weekon Choi	12/31/23
Richard Joo	12/31/23
Luke Eyerman	12/31/23
William Yu	12/31/23

OFFICIAL DEPOSITORIES

Bank of New Jersey	12/31/23
BCB Bank	12/31/23
Connect One	12/31/23
PNC Bank	12/31/23
Sovereign Bank	12/31/23
TD Bank	12/31/23
Valley National	12/31/23

OFFICIAL NEWSPAPERS

The Record	12/31/23
Newark Star Ledger	12/31/23

HONORARY MEDIA

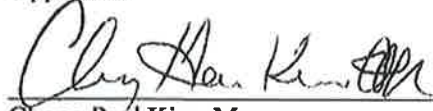
Korean Times	12/31/23
Korean Daily Central News	12/31/23

EXHIBIT D TO THE VERIFIED COMPLAINT

The Jersey Journal-Dispatch
KBN Television
AM 1660
FM 87.7

12/31/23
12/31/23
12/31/23
12/31/23

Approved:



Chong Paul Kim, Mayor

Attest:



Sophia H. Jang, Deputy Borough Clerk

EXHIBIT E

The Star-Ledger, Newark

The Star-Ledger

Publication Name:

The Star-Ledger, Newark

Publication URL:

www.nj.com/starledger

Publication City and State:

Newark , NJ

Publication County:

Essex

Notice Popular Keyword Category:

Notice Keywords:

palisades park

Notice Authentication Number:

202401030908524711578

1678258130

Notice URL:

[Back](#)

Notice Publish Date:

Friday, December 29, 2023

Notice Content

The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq. PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650. The agenda insofar as it is known at this time is consideration of the following: EXECUTIVE SESSION: Personnel N.J.S.A. 10:4-12(b)(8) OFF CONSENT AGENDA: Authorization to place employee on leave Appointment of Police Director Appointment of Special Legal Counsel PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN By Order of: Mayor and Council Gina S. Kim, RMC, CMC Borough Clerk 12/29/23 \$34.40

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EXHIBIT E

The Record, Hackensack



Publication Name:

The Record, Hackensack

Publication URL:

Publication City and State:

Hackensack , NJ

Publication County:

Bergen

Notice Popular Keyword Category:

Notice Keywords:

palisades park

Notice Authentication Number:

202401030912227876726

1678258130

Notice URL:

[Back](#)

Notice Publish Date:

Friday, December 29, 2023

Notice Content

NOTICE OF SPECIAL MEETING OF THE MAYOR AND COUNCIL The following notice is transmitted in accordance with the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6 et seq. PLEASE TAKE NOTICE that the Palisades Park Mayor and Council will hold a Special Meeting on Sunday, December 31, 2023 at 4:00 P.M. at Borough Hall, 275 Broad Avenue, Palisades Park, NJ 07650. The agenda insofar as it is known at this time is consideration of the following: EXECUTIVE SESSION: Personnel – N.J.S.A. 10:4-12(b)(8) OFF CONSENT AGENDA: Authorization to place employee on leave Appointment of Police Director Appointment of Special Legal Counsel PLEASE BE ADVISED OFFICIAL ACTION MAY BE TAKEN By Order of: Mayor and Council Gina S. Kim, RMC, CMC Borough Clerk The Record/Herald News:12/29 \$18.04

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EXHIBIT F

BOROUGH OF PALISADES PARK

275 Broad Avenue
Palisades Park, NJ 07065
Office of the Mayor

December 26, 2023

VIA CERTIFIED & REGULAR MAIL, COURIER and EMAIL

David Lorenzo
122 East Homestead Avenue
Apt. B
Palisades Park, 07650

**RE: Rice Notice
Sunday, December 31, 2023**

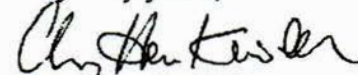
Dear Mr. Lorenzo:

Please be advised that at the Borough's special meeting, to be held on Sunday, December 31, 2023, beginning at 4:00 p.m., the Governing Body may discuss a change in terms and conditions of your employment. The meeting will be held at Borough Hall, 275 Broad Ave, Palisades Park, NJ.

Since this is a personnel matter, the Governing Body intends to discuss this matter during its executive session, which shall be closed to the public. Action, if any, will be taken in public. If there are any strictly personnel matters regarding your employment, notwithstanding litigation or pre-litigation items, you have the right to request, in writing, that the Governing Body conduct the discussion of these personnel items concerning your employment in public pursuant to the provisions of the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*), *Rice v. Union County Regional High School Bd. Of Ed.*, 155 NJ Super 64 (App. Div. 1977); cert. den., 76 N.J. 238 (1978) and *Kean Federation of Teachers v. Morell*, 233 N.J. 566 (2018). If you decide to exercise this right, you must notify me, in writing, by returning a copy of this letter, by no later than 12:00 p.m. on Friday, December 29, 2023. If you do not inform me of your election by the date and time noted herein, it will be assumed that you wish any discussion regarding the terms and conditions of your employment by the Governing Body to be held in executive session.

If you have any questions, please feel free to contact me.

Very truly yours,



Hon. Chon Paul Kim
Mayor

EXHIBIT F

Account No: 4298A-03	
Ruderman & Roth, LLC	
Ruderman & Roth, LLC	
150 MORRIS AVENUE	
Suite 303 / 3rd Fl	
SPRINGFIELD, NJ 07081	
Billing Reference No: Palisades Park	
Delivery Instructions : PLEASE LEAVE IF NO ANSWER	
RECIPIENT	TRACKING # 26775380
David Lorenzo	Label Date: 12/26/2023 11:23 AM
David Lorenzo	
122 East Homestead Avenue	
Apartment B	
Palisades Park, NJ 07650-3008	
0	

EXHIBIT F

From:

[REDACTED]

[REDACTED]

From: dalor201@yahoo.com <dalor201@yahoo.com>

Sent: Thursday, December 28, 2023 2:25 PM

To: 'Gina S. Kim' <gkim@palisadesparknj.us>; mayorkim@palisadesparknj.us

Cc: Richard Malagiere <rm@malagierelaw.com>

Subject: [EXTERNAL] FW:

Madam clerk – Ms. Gina Kim
Paul Kim

Please see attached RICE notice which I have been served with at my residence today. The meeting is to be held on NEW YEARS EVE at 4:00pm.

As instructed, I am requesting that the matter of my employment be discussed in an open session to the public at that meeting.

Ms. Kim, I have copied you on this as a second means of verification as to conform with the time standards as instructed in the RICE notice and to ensure that Paul Kim has received the same and that there is no misunderstanding as to his receipt of my response, as per the notice to response prior to 12:00 pm on Friday December 29, 2023.

Please be guided accordingly

Dave Lorenzo
Borough Administrator

[REDACTED]

From: [Giancarlo Ghione](#)
To: ["gkim@palisadesparknj.us"](mailto:gkim@palisadesparknj.us)
Cc: [Richard Malagiere](#)
Subject: OPRA
Date: Wednesday, January 3, 2024 11:47:00 AM

Please accept this email as an OPRA request. The documents sought are:

1. Public Notice, including certification of publication, of the December 31, 2023, council meeting
2. Agenda for the December 31, 2023, council meeting
3. Meeting minutes for the December 31, 2023, council meeting
4. Closed session meeting minutes of the December 31, 2023, council meeting
5. Resolutions passed at the December 31, 2023, council meeting
6. Transcript of the December 31, 2023, council meeting
7. Audio file of the December 31, 2023, council meeting

Giancarlo Ghione, Esq.
The Law Offices of Richard Malagiere
A Professional Corporation
250 Moonachie Road, 3rd Floor
Moonachie, New Jersey 07074
Direct Dial: 201-509-4165
Office Phone: 201-440-0675
Office Fax: 201-440-1843
gghione@malagierelaw.com
<http://www.malagierelaw.com>